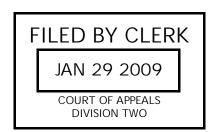
NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.



## IN THE COURT OF APPEALS STATE OF ARIZONA DIVISION TWO

THE STATE OF ARIZON	NA,	)
		) 2 CA-CR 2008-0003
	Appellee,	) DEPARTMENT B
		)
V.		) <u>MEMORANDUM DECISION</u>
		) Not for Publication
ELIZABETH MICHELLI	3	) Rule 111, Rules of
HERNANDEZ,		) the Supreme Court
		)
	Appellant.	)
		_)
APPEAL FR	OM THE SUPERIO	OR COURT OF PIMA COUNTY
	Cause No. C	CR-20064692
	Honorable Howar	rd Hantman, Judge
	A PPH	OMED
	AFFII	RMED
Emily Danies		Tucson
Enilly Dames		
		Attorney for Appellant

E C K E R S T R O M, Presiding Judge.

¶1 In April 2006, with her young daughter as a passenger, appellant Elizabeth Hernandez drove her car over a curb and into a county-owned light pole. Injured in the

accident, Hernandez was taken by ambulance to a hospital where her blood was drawn.

Later chemical analysis showed it contained an alcohol concentration of .101.

- Hernandez was indicted on four felony charges: aggravated driving under the influence of an intoxicant (DUI) with a minor present; reckless child abuse; endangerment; and criminal damage to property valued at more than \$250 but less than \$2,000. The state separately alleged that the endangerment count was a dangerous-nature offense and that Hernandez had two previous convictions. In November 2007, an eight-person jury found Hernandez guilty as charged. The trial court found she had one historical prior felony conviction and sentenced her to concurrent, presumptive, enhanced prison terms, the two longer for 2.25 years.
- Appellate counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), "setting forth a detailed factual and procedural history of the case with citations to the record, [so that] this court can satisfy itself that counsel has in fact thoroughly reviewed the record." *Id.* ¶ 32. Counsel states she has reviewed the record in compliance with *Anders* without finding any arguable legal issue to raise on appeal and asks us to search the record for fundamental error. Hernandez has not filed a supplemental brief.
- Pursuant to our obligation under *Anders*, we have reviewed the trial court record in its entirety and have searched for fundamental error, finding none. The record contains substantial evidence to support the jury's verdicts on each of the four counts of

conviction,<sup>1</sup> and the sentences imposed are the correct presumptive terms for Hernandez's two repetitive, class six felonies; one repetitive, class five felony; and one nonrepetitive, dangerous, class six felony. Having found no error, we affirm Hernandez's convictions and sentences.

	PETER J. ECKERSTROM, Presiding Judge
CONCURRING:	
J. WILLIAM BRAMMER, JR., Judge	
GARYE L. VÁSQUEZ, Judge	<del></del>

<sup>&</sup>lt;sup>1</sup>Despite having found "[n]o arguable question of law" for appeal, counsel nonetheless suggests the trial court's denial of Hernandez's motion for a judgment of acquittal pursuant to Rule 20, Ariz. R. Crim. P., "may provide the appearance of an arguable issue." Counsel's suggestion is refuted by our determination that substantial evidence existed to support the jury's verdict on each count, thus justifying the court's denial of Hernandez's Rule 20 motion. *See State v. Fulminante*, 193 Ariz. 485, ¶ 24, 975 P.2d 75, 83 (1999) (directed verdict of acquittal warranted only in absence of substantial evidence).